

ORIGINAL

FILED

07 DEC -4 AM 11:26

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

9/1/07

BY

DEPUTY

1 Mark E. Ellis - 127159
June D. Coleman - 191890
2 ELLIS, COLEMAN, POIRIER,
LaVOIE & STEINHEIMER, LLP
3 555 University Avenue, Suite 200 East
Sacramento, CA 95825
4 Telephone: (916) 283-8820
Facsimile: (916) 283-8821

5 Attorneys for Defendant CAVALRY INVESTMENTS, LLC
6
7

8 UNITED STATES DISTRICT COURT
9 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

10 '07 CV 2274 IEG (WMC)

11 JAMES M. KINDER,

12 Plaintiff,

13 v.

14 CAVALRY INVESTMENTS, LLC dba
CAVALRY PORTFOLIO SERVICES and DOES
15 1 through 100, inclusive,

16 Defendant.

CASE NO:

San Diego County Case No:
37-2007-00073301-CU-MC-CTL

NOTICE OF REMOVAL OF ACTION
UNDER 28 USC § 1441(b) (FEDERAL
QUESTION)

BY FAX

17
18 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

19 PLEASE TAKE NOTICE that defendant CAVALRY INVESTMENTS, LLC, hereby removes
20 to this Court the state court action described below:

21 1. On August 14, 2007, an action was commenced in Superior Court, State of California,
22 County of San Diego, entitled JAMES M. KINDER, Plaintiff, v. CAVALRY INVESTMENTS, LLC
23 dba CAVALRY PORTFOLIO SERVICES, Defendant, as case number 37-2007-00073301-CU-MC-
24 CTL.

25 2. On or about November 6, 2007, CAVALRY INVESTMENTS, LLC received the
26 Summons and Complaint, attached hereto as **Exhibit A**.

27 3. This Court has jurisdiction to hear this case because this action is a civil action of which
28 this Court has original jurisdiction under 28 U.S.C. § 1331, and is one which may be removed to this

1 Court by defendant pursuant to the provisions of 28 U.S.C. § 1441(b) in that it arises under the federal
2 Telephone Consumer Protection Act (47 U.S.C. § 227).

3 Dated: December 3, 2007

4 ELLIS, COLEMAN, POIRIER, LaVOIE
5 & STEINHEIMER, LLP

6
7 By 

8 June D. Coleman
9 Attorneys for Defendant
10 CAVALRY INVESTMENTS, LLC
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CERTIFICATE OF SERVICE

I, Jennifer E. Mueller, declare:

I am a citizen of the United States, am over the age of eighteen years, and am not a party to or interested in the within entitled cause. My business address is 555 University Avenue, Suite 200, Sacramento, CA 95825.

On December 3, 2007, I served the following document(s) on the parties in the within action:

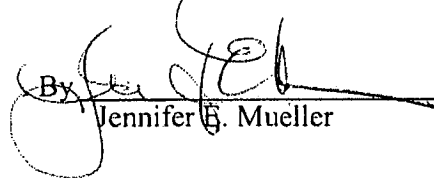
NOTICE OF REMOVAL OF ACTION UNDER 28 USC § 1441(b) (FEDERAL QUESTION)

X	BY MAIL: I am familiar with the business practice for collection and processing of mail. The above-described document(s) will be enclosed in a sealed envelope, with first class postage thereon fully prepaid, and deposited with the United States Postal Service at Sacramento, CA on this date, addressed as follows:
	BY HAND: The above-described document(s) will be placed in a sealed envelope which will be hand-delivered on this same date by _____, addressed as follows:
	VIA FACSIMILE: The above-described document(s) was transmitted via facsimile from the fax number shown on the attached facsimile report, at the time shown on the attached facsimile report, and the attached facsimile report reported no error in transmission and was properly issued from the transmitting facsimile machine, and a copy of same was mailed, on this same date to the following:
	VIA OVERNIGHT SERVICE: The above-described document(s) will be delivered by overnight service, to the following:

Chad Austin
Attorney at Law
3129 India Street
San Diego, CA 92103

Attorney for Plaintiff
JAMES M. KINDER

I declare under penalty of perjury under the laws of the State of California that the foregoing is a true and correct statement and that this Certificate was executed on December 3, 2007.

By  _____
Jennifer E. Mueller

15/09 2007 13:35 FAX 619 295 1401

CHAD AUSTIN ESQ

003/008

SUMMONS (CITACION JUDICIAL)

SUM-100

NOTICE TO DEFENDANT:**(AVISO AL DEMANDADO):**

Cavalry Investments, LLC dba Cavalry Portfolio
Services and Does 1 through 100, inclusive

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

YOU ARE BEING SUED BY PLAINTIFF:**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

James M. Kinder

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia. Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puedo encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

San Diego Superior Court
330 W. Broadway
San Diego, CA 92101
Central Division

CASE NUMBER:
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Chad Austin, Esq.

619-297-8888 F 619-295-1401

3129 India St.

San Diego, CA 92103-6014

SBN 235457

DATE:

Clerk, by _____

Deputy

(Secretario)

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

(SEAL)

1. ☐ as an individual defendant.2. ☐ as the person sued under the fictitious name of (specify):3. ☐ on behalf of (specify):under: ☐ CCP 416.10 (corporation)☐ CCP 416.20 (defunct corporation)☐ CCP 416.40 (association or partnership)☐ other (specify):4. ☐ by personal delivery on (date):☐ CCP 416.60 (minor)☐ CCP 416.70 (conservatee)☐ CCP 416.90 (authorized person)

EXHIBIT

A

15/09 2007 13:35 FAX 619 295 1401

CHAD AUSTIN ESQ

005/008

1 Chad Austin, Esq. SBN 235457
 2 3129 India Street
 3 San Diego, CA 92103-6014
 4 Telephone: (619) 297-8888
 5 Facsimile: (619) 295-1401
 6
 7 Attorney for Plaintiff JAMES M. KINDER, an individual
 8
 9
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11 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 12 **FOR THE COUNTY OF SAN DIEGO**
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11 JAMES M. KINDER,	}	CASE NO.
12 Plaintiff,		COMPLAINT FOR DAMAGES
13 v.		Violations of Telephone Consumer
14 CAVALRY INVESTMENTS, LLC dba		Protection Act of 1991
15 CAVALRY PORTFOLIO SERVICES and and DOES 1 through 100, inclusive,		
16 Defendants.		

17
 18 COMES NOW Plaintiff JAMES M. KINDER (hereinafter referred to as "Plaintiff") who alleges
 19 as follows:

20 **GENERAL ALLEGATIONS**

- 21 1. Plaintiff is, and at all times herein mentioned was, a resident of the County of San
 22 Diego, State of California.
- 23 2. Defendant CAVALRY INVESTMENTS, LLC dba CAVALRY PORTFOLIO
 24 SERVICES (hereinafter referred to as "Defendant"), was at all times herein mentioned a Delaware
 25 Limited Liability Company, doing business in the County of San Diego, State of California.
- 26 3. Plaintiff is unaware of the true names and capacities of defendants sued herein as
 27 DOES 1 through 100, inclusive, and therefore sues these defendants by such fictitious names.
 28 Plaintiff will amend this complaint to allege their true names and capacities when ascertained.

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006/008

1 Plaintiff is informed and believes and thereon alleges that each of the fictitiously named defendants
2 is responsible in some manner for the occurrences herein alleged and that Plaintiff's damages as
3 herein alleged were proximately caused by their conduct.

4 4. At all times herein mentioned each defendant was the partner, agent and employee
5 of each co-defendant herein and was at all times acting within the scope of such partnership, agency
6 and employment and each defendant ratified the conduct of each co-defendant herein.

7 **FIRST AND ONLY CAUSE OF ACTION**
8 **[Violation of Telephone Consumer Protection Act of 1991]**

9 5. Plaintiff realleges paragraphs 1 through 4 above and incorporates them herein by
10 reference.

11 6. Plaintiff is bringing this action pursuant to the provisions of the Telephone Consumer
12 Protection Act of 1991 (47 U.S.C. §227 and 47 C.F.R. §64.1200 – "TCPA").

13 7. Subdivision (b) (1) (A) (iii) of Section 227 of Title 47 of the United States Code
14 makes it unlawful for any person to "Make any call (other than a call made for emergency purposes
15 or made with the prior express consent of the called party) using any automatic telephone dialing
16 system or an artificial or prerecorded voice...to any telephone number assigned to a paging service,
17 specialized mobile radio service, or other radio common carrier service, or any service for which the
18 called party is charged for the call."

19 8. Defendants have been calling Plaintiff's number assigned to a paging service, using
20 an Automatic Telephone Dialing System and/or an artificial or prerecorded voice on at least 45
21 occasions within the statutory period of the last 4 years, pursuant to 47 U.S.C. § 1658. These 45
22 calls are only the calls known to Plaintiff at this time and Plaintiff states on information and belief,
23 without yet having the aid of full discovery, that it is quite likely that Defendant has made many
24 more violative calls to Plaintiff's number assigned to a paging service than the 45 of which he is
25 currently aware.

26 9. Subdivision (b) (1) of Section 64.1200 of Title 47 of the Code of Federal
27 Regulations requires that all prerecorded telephone messages disseminated within the United States
28 must "At the beginning of the message, state clearly the identity of the business, individual, or other

15/09 2007 13:36 FAX 619 295 1401

CHAD AUSTIN ESQ

007/008

1 entity that is responsible for initiating the call. If a business is responsible for initiating the call, the
2 name under which the entity is registered to conduct business with the State Corporation
3 Commission (or comparable regulatory authority) must be stated."

4 10. All 45 of Defendants' known illegal prerecorded message calls failed to comply with
5 this requirement.

6 11. Subdivision (b) (2) of Section 64.1200 of Title 47 of the Code of Federal
7 Regulations requires that all prerecorded telephone messages disseminated within the United States
8 must "state clearly the telephone number (other than that of the autodialer or prerecorded message
9 player that placed the call) of such business, other entity, or individual. The telephone number may
10 not be a 900 number or any number for which charges exceed local or long distance transmission
11 charges. For telemarketing messages to residential telephone subscribers, such telephone numbers
12 must permit any individual to make a do-not-call request during regular business hours for the
13 duration of the telemarketing campaign."

14 12. Three (3) of Defendants' 45 known illegal prerecorded message calls failed to
15 comply with this requirement.

16 13. Subdivision (b)(3) of section 227 of title 47 of the United States Code permits a
17 private right of action in state court for violations of 47 U.S.C. §227 (b) (1) (A) (iii), 47 C.F.R.
18 §64.1200 (b) (1) and 47 C.F.R. §64.1200 (b) (2). Plaintiff is entitled to a minimum of \$500.00 in
19 statutory damages for each such violation. If the court finds that defendants' violations were willful
20 or knowing, it may, in its discretion, award up to three times that amount.

21 WHEREFORE Plaintiff prays for judgment against defendants, and each of them, as
22 follows:

23 On the FIRST AND ONLY CAUSE OF ACTION:

- 24 1. For an award of \$500.00 for each violation of 47 U.S.C. §227 and 47 C.F.R. §
25 64.1200;
26 2. For an award of \$1,500.00 for each such violation found to have been willful;
27 3. For costs of suit herein incurred; and

28 ///

///

15/09 2007 13:36 FAX 619 295 1401

CHAD AUSTIN ESQ

008/008

1 4. For such other and further relief as the Court deems proper.

2 Dated: August , 2007

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4

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By: _____

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CHAD AUSTIN, Esq.
Attorney for Plaintiff JAMES M.
KINDER

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**UNITED STATES
DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

145076 - BH

**December 04, 2007
11:25:21**

Civ Fil Non-Pris

USAO #.: 07CV2274 CIVIL FILING

Judge...: IRMA E GONZALEZ

Amount.: \$350.00 CK

Check#.: BC# D3005671

Total-> \$350.00

**FROM: KINDER V. CAVALRY INVESTMENTS
CIVIL FILING**

ORIGINAL

JS 44
(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

James M. Kinder

DEFENDANTS

Cavalry Investments, LLC

'07 CV

FILED
2274 IEG
07 DEC
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

San Diego

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(IN U.S. PLAINTIFF CASES ONLY)

New York

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

DEPUTY

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Chad Austin
Attorney at Law
3129 India Street
San Diego, CA 92103
(619) 297-8888

ATTORNEYS (IF KNOWN)

June D. Coleman
Ellis, Coleman, Poirier, LaVoie & Steinheimer, LLP
555 University Avenue, Suite 200 East
Sacramento, CA 95825
(916) 283-8820

BY FAX

II. BASIS OF JURISDICTION (PLACE AN 'X' IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN 'X' IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PT | DEF | | PT | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Claims under the Telephone Consumer Protection Act, 47 U.S.C. §

227, et seq.

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 161 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 316 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL PROPERTY <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 460 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input checked="" type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motion to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions		

VI. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
☒ 2 Removal from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ 2,000 for each class member

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

Docket Number

DATE

SIGNATURE OF ATTORNEY OF RECORD

December 3, 2007

June D. Coleman

PA 110 b330 12/4/07 BH KUPH 145076

\\ODMAN\PCDOCS\WORDPERFECT\22816\1 January 24, 2000 (3:10pm)

CERTIFICATE OF SERVICE

I, Jennifer E. Mueller, declare:

I am a citizen of the United States, am over the age of eighteen years, and am not a party to or interested in the within entitled cause. My business address is 555 University Avenue, Suite 200, Sacramento, CA 95825.

On December 3, 2007, I served the following document(s) on the parties in the within action:

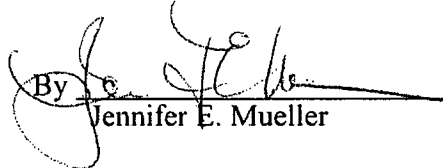
CIVIL COVER SHEET

X	BY MAIL: I am familiar with the business practice for collection and processing of mail. The above-described document(s) will be enclosed in a sealed envelope, with first class postage thereon fully prepaid, and deposited with the United States Postal Service at Sacramento, CA on this date, addressed as follows:
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	VIA OVERNIGHT SERVICE: The above-described document(s) will be delivered by overnight service, to the following:

Chad Austin
Attorney at Law
3129 India Street
San Diego, CA 92103

Attorney for Plaintiff
JAMES M. KINDER

I declare under penalty of perjury under the laws of the State of California that the foregoing is a true and correct statement and that this Certificate was executed on December 3, 2007.

By  _____
Jennifer E. Mueller